IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No. 115 of 1996
Date of decision:22.11.2006

The Commissioner of Income Tax, Amritsar

....Petitioner

versus

M/s. Hypress Casting & Alloys, Amritsar

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, 'the Tribunal') arising out of its order dated 27.7.1995 in ITA No.774/ASR/1994, for the assessment year 1990-91:-

> "Whether on the facts and in the circumstances of the case the Hon'ble Tribunal was right in law in upholding the order of the Dy.CIT(A) condoning the delay in filing Form No.12 and allowing the renewal of registration particularly when it was not asked for and no declaration under section 184(7) was filed within the time allowed by sub-section 1 of Section 139?"

The assessee claimed to have filed Form No.12 for continuation of registration. However, when confronted with the fact that a copy thereof was not on record, the assessee submitted a duplicate copy thereof before the assessment. However, the Assessing Officer treating this to be a default, denied] continuation of registration of the firm and status of the assessee was taken to be that of unregistered firm. The appellate authority finding the explanation of the assessee to be reasonable and there being no dispute about the genuineness of the firm, condoned the delay in filing of Form No.12. The Tribunal upheld the said view, following decision of the

Bombay High Court in **CIT v. Ram Kishan Tapade & Co.** (1993) 202 ITR 716.

The CIT(A) as well as the Tribunal in the present case held that there were valid reasons for accepting the explanation of the assessee even if the filing of Form No.12 is considered to be delayed. Learned counsel for the revenue could not point out any infirmity in the findings recorded by the CIT(A) and the Tribunal, which could enable this Court to hold the findings recorded by the Tribunal to be perverse.

Accordingly, the question referred is answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 22, 2006
'gs'

(Rajesh Bindal)
Judge